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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

CR No. 3:20-mj-00217-1

PLAINTIFF,

**MOTION TO MODIFY RELEASE
CONDITIONS**

v.

**GAVAUGHN GAQUEZ STREETER-
HILLERICH,**

DEFENDANT.

The defendant, through counsel, Anthony C. Schwartz, respectfully moves this Court for a modification of the Order Setting Conditions of Release signed by Judge Russo on September 16, 2020.

Mr. Streeter-Hillerich is currently on Curfew with Radio Frequency ankle-bracelet. See Order Setting Conditions of Release dated September 16, 2020 (attached). He asks that the Court relieve him of the Curfew/ankle bracelet condition and thereafter order "No Location Restriction." See Order (highlighted)

1. Background

This case concerns activity that occurred during the height of the Black Lives Matter protests in Portland during Summer 2020. The defendant is accused of committing arson on June 26, 2020 that caused a minor amount of damage to the outside of a building owned by the City of Portland that housed Portland Police Department-North Precinct and other business including a beauty supply business. The damage that occurred to the outside of the beauty supply business included some burnt paint and a burnt awning. See Criminal Complaint, filed August 26, 2020, page 6. Jurisdiction is based on a theory that because the federal government gives money to the City of Portland, and the burning damaged a building owned by the City of Portland, the DOJ can prosecute a garden variety arson otherwise only prosecutable in state court.

Nevertheless, outside of the flimsy jurisdictional hook in this case, the Multnomah County District Attorney's office brought a similar case in July 2020 involving various charges that may ultimately include this same arson charge as well against Mr. Streeter-Hillerich. Mr. Streeter-Hillerich has been under supervision of the state court since his arraignment on Information on July 8, 2020; arraignment on Indictment has been continued many times since then due to the pandemic and arraignment is now set for January 8, 2021.

Mr. Streeter-Hillerich has been under supervision of two courts since the summer without issue. For the past three months, in this case, Mr. Streeter-Hillerich has complied with all conditions of release. He has talked by telephone with his lawyer several times to discuss the case, maintained contact with his state court lawyer in the

corresponding case filed in Multnomah County, and by all accounts, Mr. Streeter-Hillerich has been in all necessary contact with his PTSO - Kevin McGlothen.

2. Argument

Mr. Streeter-Hillerich is not a *risk of flight*. He has made all court appearances related to this case, he has been in regular contact with his PTSO and his CJA lawyer, and his whole life is centered in the Portland, Oregon area. He has made all required court dates in state court as well since July 2020. He is actively participating in the defense of this case, and his state court case; he is not going anywhere.

Mr. Streeter-Hillerich is not a *danger to the community*. Mr. Streeter-Hillerich has fully complied with all release conditions in this case and in the earlier filed state case; essentially he has been under some form of supervision since July 2020, nearly six months, successfully complying with release conditions. He knows that any chance of a successful resolution here, whether through litigation or negotiation or both, will be severely hampered should he violate any condition of release.

a. employment

Mr. Streeter-Hillerich is actively seeking employment and recently had a three hour interview with AutoZone on 164th & Division. He has been offered a full time sales job that is dependent on the background check that should be completed any day now.

b. after hours transportation

In addition, Mr. Streeter-Hillerich occasionally has to pick up his girlfriend when she gets off of work at about 3:00 in the morning. Often he is not able to clear that trip

with pretrial services in advance so they have to spend money on a taxi or Uber or Lyft to get her home.

3. Request of Modification

Mr. Streeter-Hillerich is asking the Court to take him off Curfew/ankle bracelet - no more and no less - and impose No Location Restriction (as highlighted in the attached September 16, 2020 Order). Mr. Streeter-Hillerich will still have to comply with all other conditions including "report as directed" by his PTSO - meaning that Mr. Streeter-Hillerich will have to appear in the federal courthouse at the Pretrial Services Office upon a request by his PTSO to show up at the office within a reasonable time frame.

4. Conclusion

It is expected that the government and PTSO will object to this request based on an argument related to unemployment and/or failure to actively seek employment. However, as noted above, he recently interviewed with AutoZone, he has made food deliveries through various applications like GrubHub in the past, and he is actively engaged everyday in trying to clear his name related to this charge.

Mr. Streeter-Hillerich has been on release on conditions in this federal case, at liberty, in the community, without any violation - *at all* - for the past three months. It would appear an unnecessary restriction of liberty, at this time, in this case, to continue a Location Monitoring condition. All other conditions would otherwise remain the same, and those conditions continue to impose reasonable restrictions upon Mr. Streeter-Hillerich - and they are surely enough to assure his future appearances, and maintain safety to the community.

For these reasons, the defendant, Mr. Streeter-Hillerich, respectfully requests that this Court eliminate any Location Monitoring from its Order Setting Conditions of Release, and check the No Location Restriction box.

DATED this December 15, 2020

s/Anthony C. Schwartz
Anthony C. Schwartz

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

UNITED STATES OF AMERICA
v.

**ORDER SETTING CONDITIONS
OF RELEASE**

Gavaugh Gaquez Streeter-Hillerich

Case Number: 3:20MJ00217-01

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.
- (2) The defendant must cooperate in the collection of a DNA sample if the collection is authorized by 42 U.S.C § 14135a.
- (3) The defendant shall immediately advise the court through Pretrial Services or defense counsel in writing of any change in address and telephone number.
- (4) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall next appear as directed by U.S. District Court.

Additional Conditions of Release

IT IS FURTHER ORDERED that the defendant be released provided that the defendant:

- Report as directed by the U.S. Pretrial Services Office.
- Find and maintain gainful full-time employment, approved schooling or a full-time combination of both, as directed and approved by Pretrial Services.
- Do not change place of residence without the prior approval of U.S. Pretrial Services.
- Do not use or unlawfully possess a narcotic drug or other controlled substances defined in 21 U.S.C. Section 802, unless prescribed by a licensed medical practitioner. This provision does not permit the use or possession of medical marijuana even with a physician's written certification. The defendant is prohibited from using or possessing any synthetic intoxicating substance, including but not limited to "Spice", "K-2" and other forms of synthetic marijuana.
- Participate in a mental health evaluation and counseling at the direction of U.S. Pretrial Services. The defendant is also to take all medications as prescribed. The defendant shall participate in medication monitoring if directed by Pretrial Services.
- Neither own, possess, nor control any firearm (or any weapon).
- Abide by all previously imposed conditions of Multnomah County probation.
- The defendant shall be monitored by the form of location monitoring indicated below and shall abide by all technology requirements. The participant shall pay all or part of the costs of participation in the location monitoring program as directed by the court and/or the pretrial services officer.

☒ **Radio Frequency (RF) Monitoring**

☐ **Active GPS Monitoring (including hybrid GPS)**

This form of location monitoring technology shall be utilized to monitor the following location restriction:

☒ **Curfew.** You are restricted to your residence every day ☐ from ____ to ____, or ☒ as directed by the supervising officer.

☐ **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment, attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the pretrial services officer.

☐ **Home Incarceration.** You are restricted to your residence at all times except for medical necessities and court appearances or other activities specifically approved by the court.

☐ **No Location Restriction.**

- The defendant is to pay a percentage of all fees for services obtained while under Pretrial Services Supervision.

Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, forfeiture of bond, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of any crime while on pre-trial release may result in an additional sentence to a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to intimidate or attempt to intimidate a witness, victim, juror, informant or officer of the court, or to obstruct a criminal investigation. It is also a crime punishable by up to ten years of

imprisonment, a \$250,000 fine or both, to tamper with a witness, victim or informant, or to retaliate against a witness, victim or informant, or to threaten or attempt to do so.

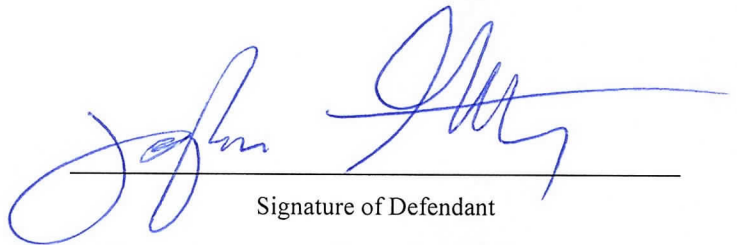
If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for no more than ten years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for no more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned no more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both;

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



Signature of Defendant

Troutdale, OR 97060

City, State & Zip

Special Needs Finding:

Based upon the above conditions, including the conditions relating to:


- ☐ Alcohol detection
- ☐ Drug detection
- ☐ Computer monitoring

The Court is reasonably assured the defendant will appear as directed and not pose a danger to the community or any other person.

Directions to the United States Marshal

- ☒ The defendant is ORDERED released after processing.
- ☐ The defendant is ORDERED temporarily released.
- ☐ The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk, Pretrial Services or judicial officer that the defendant has posted bond and/or complied with all other conditions for release including space availability at a community corrections center or residential treatment facility. If still in custody, the defendant shall be produced before the duty Magistrate Judge on _____ at _____.

Date: September 16, 2020



Signature of Judicial Officer

Jolie A. Russo

U.S. Magistrate Judge

Name and Title of Judicial Officer

cc: Defendant
US Attorney
US Marshal
Pretrial Services